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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FOUR

THE PEOPLE,

Plaintiff and Respondent,

v.

DONALD JOSEPH HEINEY,

Defendant and Appellant.

A102346

(Sonoma County Super. Ct.

Nos. SCR 29322, SCR 29472)

Donald J. Heiney appeals from the revocation of his probation. Appellant's court appointed counsel has briefed no issues and asks this court to review the record pursuant to *People v. Wende* (1979) 25 Cal.3d 436.

In July 2000, the court sentenced appellant to a four-year and eight-month state prison term. The aggregate term was comprised of the aggravated term of three years for receiving stolen property (Pen. Code, § 496, subd. (a)),<sup>1</sup> a one-year enhancement for having served a prior prison term (§ 667.5, subd. (b)) (Sonoma County Super. Ct. Case No. SCR 29322), and a consecutive eight months, or one-third the middle term, for receiving stolen property (§ 496, subd. (a)) (Sonoma County Case No. SCR 29472). The court then stayed execution of sentence for a period of four years.

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<sup>1</sup> All statutory references are to the Penal Code.

In January 2003, the court granted the probation department's motion to summarily revoke appellant's probation based on the allegations, inter alia, that appellant consumed alcoholic beverages and suffered a new misdemeanor arrest.

Appellant admitted violating the terms of his probation by consuming alcohol and failing to obey all laws.

The court permanently revoked appellant's probation and imposed his previously stayed four-year and eight-month commitment to state prison. The court ordered appellant to pay an \$800 restitution fine while granting him 189 days' total presentence credit in Sonoma County Superior Court Case No. SCR 29332 and 13 days' total presentence credit in Sonoma County Superior Court Case No. SCR 29472.

Appellant was represented by counsel throughout the proceedings.

There was no sentencing error.

There are no legal issues that require further briefing.

The order revoking appellant's probation is affirmed.

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Kay, P. J.

We concur:

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Reardon, J.

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Sepulveda, J.